

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ALLAN THOMAS ROCKWELL,

Plaintiff,

v.

TUOLUMNE COUNTY, et al.,

Defendants.

Case No. 1:22-cv-00392-JLT-EPG

ORDER DIRECTING PLAINTIFF TO SERVE  
ALL PARTIES WITH PLAINTIFF'S  
OBJECTIONS TO ALL MAGISTRATE  
JUDGE'S FINDINGS AND  
RECOMMENDATIONS AND MOTION TO  
DISQUALIFY FEDERAL MAGISTRATE  
JUDGE ERICA P. GROSJEAN

(ECF No. 52)

On July 26, 2022, Plaintiff Allan Thomas Rockwell ("Plaintiff") filed objections to the Court's July 14, 2022 findings and recommendations and a motion to disqualify. (ECF No. 52; *see also* ECF No. 43.) Plaintiff also attaches a proof of service stating that the filing was mailed to the Court but not to Defendants Tuolumne County, Michael Choate, Denise Choate, and Melissa Brouhard ("Defendants"). (*See id.* at 4.)

Federal Rule of Civil Procedure 5 provides, in relevant part:

(1) *In General*. Unless these rules provide otherwise, each of the following papers must be served on every party:

...

(D) a written motion, except one that may be heard *ex parte*; and

(E) a written notice, appearance, demand, or offer of judgment, or any similar paper.

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1 Fed. R. Civ. P. 5(a). Additionally, Local Rule 135 states:

2 **(a) Service of Electronic Documents.** "Service" as utilized in these Rules  
3 includes electronic service as set forth in the CM/ECF procedures in these Rules.  
4 "Notice of Electronic Filing" is a notice automatically generated by CM/ECF at  
5 the time a document is filed with the system. This Notice will constitute automatic  
6 service of the document on all others. This Notice will set forth the time of filing,  
7 the name of the parties and attorney(s) filing the document, the type of document,  
8 the text of the docket entry, the name of the parties and/or attorney(s) receiving the  
9 notice, and an electronic link (hyperlink) to the filed document that allows  
10 recipients to retrieve the document automatically. Service via this electronic  
11 Notice constitutes service pursuant to Fed. R. Civ. P. 5(b)(2)(E) and Fed. R. Crim.  
12 P. 49.

13 **(b) Conventional Service.** If persons are not registered for the CM/ECF system,  
14 e.g., prisoners or pro se parties, the Notice will identify the persons who were not  
15 electronically served. Persons who were not electronically served must be  
16 conventionally served. Counsel shall serve these persons in accordance with the  
17 appropriate Federal Rules of Procedure.

18 **(c) Proof of Service for Paper Documents.** When service of any pleading, notice,  
19 motion, or other document is required under Rule 135(b), proof of such service  
20 shall be endorsed upon or affixed to the original of the document when it is lodged  
21 or filed. Except for ex parte matters, a paper document shall not be submitted for  
22 filing unless it is accompanied by a proof of service. Proof of service shall be  
23 under penalty of perjury and shall include the date, manner and place of service.

24 **(d) Service Upon All Parties.** Unless a party expressly waives service, copies of  
25 all documents submitted to the Court shall be served upon all parties to the action,  
26 except that no service need be made upon parties held in default for failure to  
27 appear unless the document involved asserts new or additional claims for relief  
28 against such defaulting parties. See Fed. R. Civ. P. 5(a).

18 E.D. Cal. L.R. 135(a)-(d).

19 Plaintiff is thus required to serve copies of all documents filed with the Court on  
20 Defendants. Rule 5 explains how such documents are to be served:

21 (1) *Serving an Attorney.* If a party is represented by an attorney, service under this  
22 rule must be made on the attorney unless the court orders service on the party.

23 (2) *Service in General.* A paper is served under this rule by:

24 (A) handing it to the person;

25 (B) leaving it:

26 (i) at the person's office with a clerk or other person in charge or, if no one is in  
27 charge, in a conspicuous place in the office; or

28 (ii) if the person has no office or the office is closed, at the person's dwelling or  
usual place of abode with someone of suitable age and discretion who resides  
there;

(C) mailing it to the person's last known address—in which event service is complete upon mailing;

(D) leaving it with the court clerk if the person has no known address;

(E) sending it to a registered user by filing it with the court's electronic-filing system or sending it by other electronic means that the person consented to in writing—in either of which events service is complete upon filing or sending, but is not effective if the filer or sender learns that it did not reach the person to be served; or

(F) delivering it by any other means that the person consented to in writing—in which event service is complete when the person making service delivers it to the agency designated to make delivery.

Fed. R. Civ. P. 5(b).

Here, Defendants Tuolumne County and Melissa Brouhard are represented by counsel and registered for filing through CM/ECF. Therefore, these defendants receive electronic service upon filing. However, Defendants Denise Choate and Michael Choate are proceeding pro se and are not registered for the CM/ECF system. Thus, Plaintiff is required to conventionally serve Defendants Denise Choate and Michael Choate with each document submitted to the Court.

Because the proof of service attached to Plaintiff's objections and motion for disqualification states that Defendants Denise Choate and Michael Choate have not been served, the Court will direct Plaintiff to serve them with his objections and motion and to file a proof of service with the Court.<sup>1</sup> Plaintiff is further reminded that all future documents submitted to the Court must be served on all parties pursuant to Rule 5 and Local Rule 135.

Accordingly, IT IS HEREBY ORDERED that, within seven (7) days of service of this order, Plaintiff shall serve Defendants Denise Choate and Michael Choate with copies of his Objection to All Magistrate Judge's Findings and Recommendations and Motion to Disqualify Federal Magistrate Erica P. Grosjean (ECF No. 52) and shall file a proof of service with the Court.  
IT IS SO ORDERED.

Dated: July 27, 2022

/s/ Erica P. Grosjean  
UNITED STATES MAGISTRATE JUDGE

<sup>1</sup> As explained in the Court's July 14, 2022 findings and recommendations, Defendants may file a response to Plaintiff's objections within fourteen (14) days of service. (ECF No. 43.) See also Fed. R. Civ. P. 6(d).